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Arroyo Flood Control Authority  
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**1. Call to Order and Roll Call**

Chair Saiers called the Regular Board Meeting to order at 10:02 a.m. Thursday, June 24, 2010. Roll was noted as follows:

Directors present:	Chair Janet Saiers Director Ronald D. Brown Director Danny Hernandez Director Tim Eichenberg Director Daniel Lyon
Director excused:	None
Others present:	John Kelly, Executive Engineer Attorney Marcus Rael, Jr. Staff Other attendees on file at AMAFCA

A quorum was present. Chair Saiers noted the presence of former AMAFCA Director Geneiva Meeker. She also acknowledged Bruce Thomson and John Doran, Director candidates for District 5, and Dr. Julie Coonrod of UNM, who was in attendance for the UNM Hydraulic Modeling Agreement on the consent agenda.

**2. Approval of Agenda**

Mr. Kelly stated that he would like to add an item under New Business regarding the Montañño Levee Gap Floodplain Mapping. Director Hernandez asked that item 11 be removed from the consent agenda.

Director Brown made a motion to approve the agenda with those two changes. Director Hernandez seconded the motion, which passed unanimously (5-0).

**3. Meetings Scheduled**

- a. Tuesday, July 6, 2010, 8:30 a.m. – Special Meeting
- b. Thursday, July 22, 2010, 10:00 a.m. – Regular Meeting
- c. Thursday, August 26, 2010, 10:00 a.m. – Regular Meeting
- d. Thursday, September 23, 2010, 10:00 a.m. – Regular Meeting

Mr. Kelly stated the July 6 meeting would be discussed in agenda item 8. He added that he would like to schedule a special meeting on July 15, 2010, to approve an agreement that is in draft form



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at agenda item 17c. The July 15, 2010 Special Board meeting is contingent on the Middle Rio Grande Conservancy District taking action on July 12, 2010. After discussion, the revised meeting schedule was set as follows:

- a. Tuesday, July 6, 2010, 8:30 a.m. – Special Meeting**
- b. Thursday, July 15, 2010, 8:30 a.m. – Special Meeting**
- c. Thursday, July 22, 2010, 10:00 a.m. – Regular Meeting**
- d. Thursday, August 26, 2010, 10:00 a.m. – Regular Meeting**
- e. Thursday, September 23, 2010, 10:00 a.m. – Regular Meeting**

**4. Items from the Floor / Public Comment**

None.

**5. Approval of Minutes**

- a. May 27, 2010**

Director Hernandez made a motion to approve the minutes of the May 27, 2010 Regular Board Meeting. Director Brown seconded the motion, which passed unanimously (5-0).

- b. June 10, 2010**

Director Hernandez made a motion to approve the minutes of the June 10, 2010 Special Board Meeting. Director Brown seconded the motion, which passed unanimously (5-0).

**6. Financial Matters**

- a. Approval of May 2010 Expenditures**

Irene Jeffries, AMAFCA Business Manager, presented the May 2010 Expenditure Report.

Responding to a question from Director Eichenberg, Kurt Wagener, AMAFCA Field Engineer, clarified that the fencing purchased from American Fence Company was approximately 250 linear feet of 96" tall fence panels, to complete the fencing of the maintenance yard.

Director Hernandez made a motion to approve the May 2010 Expenditure Report. Director Lyon seconded the motion, which passed unanimously (5-0).



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**b. Investment Report for May 2010**

Ms. Jeffries presented the investment report for May 2010. There were no questions.

**c. Financial Recap May 16, 2010, through June 15, 2010**

Ms. Jeffries presented the Financial Recap for May 16, 2010 through June 15, 2010. She noted that the Construction Fund included the cost share funds received from the City of Albuquerque for the FEMA study. There were no questions.

**d. Financial Forecast June 16, 2010, through July 15, 2010**

Ms. Jeffries presented the Financial Forecast for the period June 16, 2010, through July 15, 2010. She stated that the Operating Fund includes a transfer coming in from the Building and Yard Improvement Fund, which was part of the budget adjustment approved at the May Board meeting. Mr. Kelly noted that the Construction Fund Forecast does not include a \$700,000 invoice received the day before from Bernalillo County, for the Five Points/Sunset project. He requested the Board amend the recommended actions from \$200,000 to \$900,000, and include a corresponding withdrawal from the State Short Term Fund (SSTF).

Director Brown made a motion that the Board approve the Financial Forecast as amended, with an increase of \$700,000 in SSTF withdrawals in the Construction Fund, and increase Construction Fund payments by \$700,000. Director Hernandez seconded the motion, which passed unanimously (5-0).

**e. Consideration of Finding to Delete Certain Items from Inventory**

Ms. Jeffries presented the Board with a list of broken, obsolete, and no longer used items and asked that they be removed from the inventory in a cleanup action. In response to a question from Director Eichenberg, Ms. Jeffries stated that several "executive chairs" were no longer in use by the office staff, but were being used by the maintenance crew until they become unusable, when they will be disposed of.

Director Lyon made a motion that the Board approve removal from AMAFCA's inventory and authorize the deletion and/or disposal of certain inventory items listed in the memo, and execute the Official Finding for submission to the State Auditor. Director Eichenberg seconded the motion, which passed unanimously (5-0).



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**f. Acceptance of Inventories**

Ms. Jeffries presented the Board with the office and maintenance inventories, and requested the Board officially accept them. Subject to the Board's approval of the previous item, she had removed the items listed in agenda item 6e.

Director Hernandez made a motion that the Board accept the Inventory Lists as presented. Director Brown seconded the motion, which passed unanimously (5-0).

**7. Legal**

**a. Status Report**

Attorney Marcus Rael briefed the Board on the status of various legal matters, answering several questions from the Board. Director Eichenberg requested further information on one of the items.

Director Eichenberg made a motion that the meeting be closed, pursuant to the Open Meetings Act, §10-15-1 NMSA 1978, Subsection H, to preserve the confidentiality of the information to be discussed, and as further described in "*The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens*," sixth edition, 2008, to discuss a potential real estate litigation. Director Hernandez seconded the motion.

Chair Saiers stated that the closed session would be for purposes of discussion only, regarding a real estate matter. The motion passed unanimously (5-0), on a roll call vote.

Chair Saiers closed the meeting at 10:20 a.m.

Director Brown made a motion that the meeting be re-opened. He stated that the Board had made no decisions during the closed session, but had discussed potential real estate litigation. Director Hernandez seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chair Saiers reopened the meeting at 10:30 a.m., and directed Attorney Rael to proceed as he had recommended during the closed session.

**8. Personnel Matters**

Mr. Kelly stated that one of the five Executive Engineer candidates selected by the Board to continue into the interview phase of the hiring process had withdrawn from consideration. Background checks of the remaining four applicants had been completed. Three of the four applicants are available for interviews on July 6 or 7, but one is not.



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After discussion, the Board decided to meet at 8:30 a.m. on July 6 to plan the interview process. The first interview will be at 9:00 a.m. and the second at 10:30 a.m. There will be a brief recess at noon, followed by the third interview at 12:15 p.m. Interviews will be in closed session. The Board will briefly discuss each candidate after their interview. Mr. Kelly will contact the fourth candidate and coordinate his interview with the Board, setting it for either July 12, 2010, or July 15, 2010.

**9. 2010 Board Election**

Chair Saiers noted that the two candidates for Director from District 5 are Bruce M. Thomson and John Doran. Bruce M. Thomson drew the first ballot position, and John Doran drew the second ballot position.

She stated that the last day to challenge the nominating petitions is July 2, 2010. The Certificate of Nomination will be signed at the July 22, 2010 Board meeting.

Mr. Kelly stated that staff will provide the candidates with candidate information packets in the near future, and will provide them with mailout packets for the Board meetings through the election in November.

**10. Notification of On-Call Services Task Orders**

Mr. Kelly noted that four on-call services task orders had been issued in the past month, as described in his memo. There was also a supplemental memo from Lynn Mazur, AMAFCA Development Review Engineer, supplying additional rationale for one of the task orders with Easterling and Associates, which was for a 100 year Hydrology and Hydraulic model for the South Diversion Channel, from the Tijeras Arroyo confluence to the upstream end of the South Diversion Channel.

**11. Consideration of Turnkey Agreement for South Diversion Channel Modification as Related to UNM Housing Project**

Director Hernandez made a motion that the Board defer a decision on this agreement, to allow time for the Board to hear from ACC, the developer. Director Eichenberg seconded the motion. Director Hernandez then amended his motion to table this item to the next Regular meeting rather than defer it. Director Eichenberg seconded the motion to table.

The amended motion to table this agenda item passed (4-1), Chair Saiers dissenting.



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***Consent Agenda – agenda items 12-14:***

**12. Consideration of "Exhibit A", Resolution 2006-8, *Reimbursement for AMAFCA Goods and Services***

The memo from Ms. Jeffries stated that "Exhibit A" to Resolution 2006-8, *Reimbursement for AMAFCA Goods and Services*, was last revised December, 2007, and had been approved unchanged at the Board of Directors meetings of June 26, 2008 and June 25, 2009. Fees have not changed and no new fees have been added to the schedule. Revenues received for each category in FY 2009 and FY 2010 were provided. She requested the Board approve "Exhibit A" of Resolution 2006-8.

**13. UNM Hydraulic Modeling Agreement**

The memo from Mr. Kelly stated the UNM Open Channel Modeling proposal for Year 22, not to exceed \$50,000, matched the budgeted amount. The memo provided information on the projects modeled at the lab in the past year. This work resulted in confirming hydraulic performance for normal structural designs, resulting in more efficient designs and reduced maintenance costs. He requested the Board approve the UNM Open Channel Modeling proposal for Year 22.

**14. United States Geological Survey Cooperative Program – Approval of FY-11 Program**

The memo from Jerry Lovato, AMAFCA Drainage Engineer, stated AMAFCA, the United States Geological Survey (USGS) and the City of Albuquerque have participated in a Cooperative Program since 1976, to obtain accurate hydrological data for storm water resources within the greater Albuquerque area. This year's Cooperative Program is similar to previous years, but with additions to address EPA requirements, and a change in the PCB testing method required by the New Mexico Environmental Department, which costs more. The overall program cost is up 5%, but due to increased funding obtained by the USGS, base program costs to AMAFCA and the City have dropped 7% each. He requested Board approval of the Cooperative Agreement with the USGS and the City of Albuquerque for FY 2011, with the AMAFCA share not to exceed \$170,361.00.

There being no further items on the Consent Agenda, and there being no questions, Director Eichenberg made a motion that the Board take action on the consent agenda, as follows:

- Approve "Exhibit A" of Resolution 2006-8, *Reimbursement for AMAFCA Goods and Services*;



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- Approve the UNM Open Channel Modeling proposal for Year 22, not to exceed \$50,000, and authorize the Executive Engineer to execute the necessary proposal acceptance forms from UNM; and
- Authorize the Executive Engineer to execute the Cooperative Agreement with the USGS and the City of Albuquerque with the AMAFCA share not to exceed \$170,361.00.

Director Lyon seconded the motion, which passed unanimously (5-0).

***Regular Agenda:***

**15. Renaming of Big Sky Hang Glider Park at AMAFCA South La Cueva Diversion Channel – Concurrence with Request by Bernalillo County**

Mr. Kelly introduced Adrienne Candelaria, of Bernalillo County. She requested that the Board concur with the Bernalillo County Commission's decision to add "Sen. Harrison Jack Schmitt" to the name of the Big Sky Hang Glider Park. The park is on AMAFCA property under a license agreement dated July 22, 1999, which is silent on the protocol of naming the licensed facilities.

During discussion, Director Eichenberg noted that the license to Bernalillo County for the hang glider park did not specifically address naming of the park. The Board also discussed the Board's and Bernalillo County's naming policies. Roger Paul, of Bernalillo County, stated that in 2009 Bernalillo County passed an ordinance regarding the naming of facilities. The ordinance established a naming committee. There is no requirement of posthumous naming only.

Director Hernandez stated the County should not rename AMAFCA property without asking AMAFCA first, and Director Lyon agreed. Director Hernandez stated that he would have had no problem renaming the park if the request had come before the ceremony was scheduled, but was very uncomfortable that the ceremony was planned before permission was granted.

Director Brown noted that the County does an excellent job of managing the park, including maintenance, and stated that although the request was inadvertently out of order, he supported renaming the park. Director Eichenberg agreed.

Director Brown made a motion that the Board concur with the County's request to rename Big Sky Hang Glider Park to "Sen. Harrison Jack Schmitt Big Sky Hang Glider Park." Director Eichenberg seconded the motion.

Director Eichenberg then requested that next time, AMAFCA be approached first, before the renaming ceremony is scheduled.



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Ms. Candelaria stated that AMAFCA would be contacted early on in the process in the future. She added that the County also planned to update the signage to a bronze plaque on a granite boulder, commemorating and acknowledging the cooperation with AMAFCA, at some point in the future.

Chair Saiers requested that the Executive Engineer communicate with AMAFCA's license partners, requesting that they contact AMAFCA first when contemplating renaming one of AMAFCA's facilities. Mr. Kelly stated that he would call the County Manager and the City's Chief Administrative Officer regarding this issue.

The motion passed (3-1-1), with Director Hernandez voting against and Director Lyon abstaining because Bernalillo County did not request concurrence with the name change prior to scheduling the ceremony.

**16. 2010 Bond Sale – Briefing by RBC Capital Markets, AMAFCA's Financial Advisor, on Bond Sale Amount, Structure, and Timing**

Mr. Kelly stated that Mr. Lovato would handle this agenda item, as he and Ms. Jeffries have been working with RBC Capital Markets on the bond sale.

Mr. Lovato introduced Kevin Powers and Loretta Brush, of RBC Capital Markets, AMAFCA's Financial Advisor.

Mr. Powers briefed the Board on the status of the bond market, and the structure and timing of the proposed bond sale for the remainder of the 2008 bond authorization. He stated that the market conditions for AMAFCA's bond sale are currently very good. He recommended adoption of a notice of bond sale at the July Board meeting, with the sale to be held September 23, 2010. The funds from the sale would be received by AMAFCA in October, 2010.

Mr. Powers stated that he had received new valuations from Bernalillo County the day before. He re-ran AMAFCA's finance plan and AMAFCA can still accomplish its financial goals at the current mill levy rate with the new valuations. Residential values dropped about 5% due to tax lightning and rollbacks on residential values. Commercial properties also declined in value. Centrally assessed valuations went up 20% county-wide. The original model had been based on flat assessments for this year and next. When he re-ran the model, he used values down 5% this year, and flat next year.

Director Eichenberg stated that most of the centrally assessed valuations were Comcast infrastructure, largely on the west side of Albuquerque. He explained the valuation and protest procedure. He stated that multifamily properties were taken out of the residential category. Many protests were filed, which will probably go to court. He also pointed out that vacant and





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commercial properties will be re-evaluated next year based on 2009 values. He stated that AMAFCA should be prepared for non-residential valuation to drop next year.

Mr. Powers noted that even if non-residential values drop, they are only a small portion of real property, so the impact is lessened. He stated he is comfortable that AMAFCA can accommodate the sale without raising the debt service mill levy rate.

At the Chair's request, Mr. Powers stated he will run the model again, using a 20% drop in non-residential values and a 2% increase in residential values for next year, to see how that affects the long-term plan. He also noted that the model assumes a 4% interest rate, when current bonds are selling at around 2%.

Director Eichenberg noted that AMAFCA is not in the financial difficulties that those who depend upon gross receipts tax are facing, but should be prepared for the future. He suggested gradual, rather than sudden, changes. Rather than a large increase in four years, take half of it in two years and the rest two years later. He urged that AMAFCA continue to be conscientious with the taxpayers' money. He also noted that AMAFCA's construction projects create local jobs in the community.

Director Hernandez noted that construction costs are down considerably more than 5%, so AMAFCA is getting a lot for its money.

Consensus of the Board was to proceed with the plan of action recommended by Mr. Powers, with additional modeling done to continue to plan ahead for future years.

**17. Southwest Valley Flood Reduction Project**

- a. *Consideration of Amendment No. 1 to the Project Cooperation Agreement between the Department of the Army and Albuquerque Metropolitan Arroyo Flood Control Authority and Bernalillo County for Construction of the Southwest Valley Flood Reduction Project***

Mr. Lovato introduced Deb Foley and Jerry Nieto, of the Corps of Engineers, and Roger Paul, of Bernalillo County.

Mr. Lovato stated that the Project Cooperation Agreement (PCA) amendment is in the process of being approved at the Corps of Engineers' Headquarters in Washington, D.C. He requested Board approval of the amendment to save time once all the federal government approvals are obtained. Director Brown pointed out that if they ask if the local sponsors agreed to the amendment, the parties can answer in the affirmative, which may help speed approval.



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Director Brown made a motion that the Board approve *Amendment No. 1 to the Project Cooperation Agreement between the Department of the Army and Albuquerque Metropolitan Arroyo Flood Control Authority and Bernalillo County for Construction of the Southwest Valley Flood Reduction Project*, substantially the same as attached to the memo, and authorize the Chair to execute the same on behalf of AMAFCA, after Counsel's review and acceptance of the final document from the Corps. Director Lyon seconded the motion.

Deb Foley stated that when the original PCA was signed, the local sponsors could not be reimbursed for construction done themselves, and the original agreement reflects this. Now Congress allows local sponsors to be reimbursed for design and construction, and get credit for it. The PCA amendment will modify the PCA to allow this. She stated the amendment is awaiting final Assistant Secretary approval, which was expected in the next few days. Then the AMAFCA Board and Bernalillo County can sign it, followed by the Corps of Engineers' District Commander. At that point it will become effective.

The motion passed unanimously (5-0).

**b. Los Padillas Spillway Diversion Crossing of Isleta Boulevard – Update on Advertisement for Construction Bids**

Kurt Wagener, AMAFCA Field Engineer, stated that before the Los Padillas Spillway Diversion Crossing of Isleta Boulevard would be advertised, the Project Cooperation Agreement Amendment needs to be signed, and the Biological Assessment and Supplemental Environmental Assessment need to be complete. The target date for these things to be complete is July 5.

He added that the plans and specifications are ready to go. When the decision is made to advertise the project, the dates will be changed and the project advertised for bid.

He also noted that Qwest is making good progress on utility relocation ahead of the project.

**c. Further Discussion of Permitting Issues for Southwest Valley Flood Reduction Project**

Mr. Lovato stated that he had provided a copy of a letter from the U.S. Fish and Wildlife Service (USFWS). The local sponsors are working with the Bureau of Reclamation (BOR), the Environmental Protection Agency (EPA), and the Middle Rio Grande Conservancy District (MRGCD) to address their concerns. A four-party agreement will be drafted to address maintenance of the project. The four parties to the agreement will be the MRGCD, BOR, AMAFCA, and Bernalillo County. This agreement will be further discussed at the Special Board meetings on July 6 and July 15, 2010, and potentially approved at the July 15 meeting.



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Mr. Lovato noted that since the last briefing, the USFWS has provided written comments on the Supplemental Environmental Assessment (SEA) and the Biological Assessment (BA). Their major concern is the operation of the completed project, and the effect of storm water on critical habitat. The Corps of Engineers (COE) met with USFWS prior to the submittal of the SEA. As a result of that meeting, the design of the project was modified to eliminate an encroachment into critical habitat, and the COE phased the construction to address USFWS concerns.

He stated that the operation and maintenance of the project is addressed in a BA and Biological Opinion (BO) that is associated with the MS4 Phase I permit. EPA Region 6 is preparing the BA. The USFWS will prepare the BO based on the information EPA provides in the BA.

He added that the COE is finalizing the response to the USFWS comments and hopes to have the USFWS concur with the SEA through an informal consultation process, which will greatly reduce the amount of time needed to approve the project.

Mr. Lovato quickly outlined further meetings that will be held to address critical habitat, habitat restoration, flood control operations, and water quality issues. He noted the main issue for the BOR and MRGCD is the co-mingling of irrigation flows and storm water. Water quality, testing, monitoring, and reporting will need to be addressed to the satisfaction of the MRGCD.

He noted that the BOR requires some sort of consideration in their agreements – usually a rental or user fee. Staff is negotiating alternatives, perhaps involving provision of wildlife habitat. Maintenance responsibilities will be outlined in an Operations and Maintenance Manual.

Mr. Lovato stated that a draft four-party agreement will be brought to the Board on July 6, 2010. If approved by MRGCD on July 12, it can be approved at the July 15, 2010 Special AMAFCA Board meeting. The urgency on the agreement is so that the COE can begin advertising Phase I of the project on July 16, 2010, such that they can have the project awarded prior to the end of the Federal fiscal year, and lock up the Federal funding.

Mr. Lovato stated that the Bureau of Reclamation has agreed to give a right of use permit to put stormwater in the drains. This is the first official authorized use of drains for stormwater in the United States, since the passage of the Clean Water Act. The main issue is co-mingling of storm water and irrigation water in the drains.

Responding to a question from Chair Saiers, Deb Foley of the Corps of Engineers stated that the urgency behind this project was due to the need to tie up allocated funds by committing to a construction project. This means the funds cannot be taken away or used elsewhere.

Jerry Nieto, also of the Corps of Engineers, added that they plan to advertise beginning the second week of July, so that the funds would be tied up before the end of August. The



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construction contract needs to be awarded before the end of the federal fiscal year. If the funds are not committed they could be pulled and put on another project. The first phase of this project has about \$5 million in federal money behind it, which could be lost if the contract is not awarded in time.

Mr. Lovato added that these funds are in addition to the 35% local match.

**d. *Review of Draft Agreement for Construction and Construction Engineering Services for Drainage Improvements Required by the Southwest Valley Flood Reduction Project at Navajo Elementary School***

Mr. Lovato stated that a draft agreement had been drawn up for Albuquerque Public Schools (APS) and AMAFCA to fund a pipeline along the edge of Navajo Elementary School. He stated that the agreement was being reviewed by legal counsel for APS, and has already been through AMAFCA legal review. He asked for Board review and comment on the draft agreement, noting it would be brought to the Board for approval at the July 22, 2010 Regular Board meeting.

After brief discussion, consensus of the Board was support of the draft agreement. Director Hernandez noted that the agreement saves AMAFCA money on this project.

Chair Saiers stated that agenda item 20 would be heard next.

**20. *Albuquerque MS-4 Permit Renewal – Briefing on Conditions of Draft Permit***

Mr. Kelly noted that, as Kevin Daggett was in Santa Fe at a conference all week, Mr. Lovato would brief the Board on the MS-4 Permit. Many of these requirements may find their way into a revised AMAFCA Drainage Resolution. Chair Saiers introduced David Campbell, Chief Administrative Officer of the City of Albuquerque. She noted that the City of Albuquerque is a co-permittee on the MS-4 Permit.

Mr. Lovato stated that the new permit is completely different from the old permit. It is about 90 pages long; 44 pages of that is a detailed fact sheet. It assumes programs are in place, inspections are being done, and also assumes compliance with the existing permit. It will require about 2,000 man-hours to comply with a number of tasks due in the next six months.

In addition to the testing AMAFCA is already doing, he noted that the new permit requires PCB testing. It will cost in excess of \$40,000 to do this testing, which the USGS contract can be modified to handle. It also requires ordinances, enforcement, and compliance. AMAFCA does not have a way to require water quality features unless it is on AMAFCA property, so cooperation with the City on this component is required.



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Director Hernandez commented that, at the MS4 Conference in Santa Fe, the EPA representative said that where AMAFCA has jurisdiction, we will have to handle water quality issues. The City will have to handle just about everywhere else within the permitted area.

Mr. Lovato stated that a Joint Powers Agreement (JPA) will be needed in order to delegate and assign funding, responsibilities, and liabilities among the co-permittees. The permit states that all co-permittees are responsible for the failure of one co-permittee to meet their obligations under the permit.

He added that he will keep the Board apprised on the status of the MS-4 Permit, and our compliance efforts.

David Campbell stated that the City will work with AMAFCA on the JPA. He will ask the City Council for additional resources to comply with the requirements of the permit. He noted that the first tasks all need to be accomplished very quickly. He reiterated the City's commitment to work together with AMAFCA to get this done as quickly as possible, looking to AMAFCA for additional technical guidance.

In response to a question from Director Eichenberg about up-front issues, costs, and personnel, and asking if the co-permittees can deliver, Mr. Campbell stated that the EPA has told us we must deliver. Plus, since some of our drinking water comes from the river, it is in our best interests to comply, and see that those upstream of us also comply. It is clearly an unfunded mandate, but we have to take care of it. Working together, we can allocate the work between governments and combine our expertise and resources, to accomplish the required tasks without duplicating efforts.

Responding to a question from Director Lyon, Mr. Lovato stated that the four parties in the MS-4 permit, AMAFCA, the City of Albuquerque, the New Mexico Department of Transportation, and the University of New Mexico, would be the four parties in the JPA.

The Board briefly discussed why these four parties were included in the MS-4 permit, and why Bernalillo County, Kirtland Air Force Base, and the State of New Mexico (for the State Fairgrounds) were not involved. Mr. Lovato noted that in 2012, everyone in Bernalillo County will be under one permit. The County has been asked to do more zoning, and to control development and land use. Currently, Bernalillo County, Kirtland Air Force Base, and the State are requesting to become Phase 2 permittees. Bernalillo County is currently under a Phase 2 permit.

Mr. Rael noted that written comments on the permit are due by July 28, 2010.



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**18. Black Mesa Phase Ia Pipe Extension Project – Consideration of Engineering Services Agreement with Wilson & Company**

Lynn Mazur, AMAFCA Development Review Engineer, introduced Mario Juarez-Infante and Chris Perea of Wilson & Company.

Ms. Mazur stated that this project will build the pipe to connect three dam outlets to the river. The Corps of Engineers has built the pipe outlet to the river up to Coors Boulevard. This project will connect the dam outlets to that pipe. The investigation of alternative alignment options is included in the agreement. The agreement is phased – Phase I includes an alignment study and selection of the best alignment. Phase II includes preliminary and final design. The agreement covers both phases, but only includes fees for the first phase. Fees are based on "time and materials, not to exceed" for all tasks. The entire fee may not be needed.

Responding to a question from Director Brown, Ms. Mazur clarified that the preliminary design will only be done on the preferred alignment. Approximately 17,000 linear feet of storm drain will be designed.

Director Brown made a motion that the Board approve the *Agreement for Design Engineering Services for Black Mesa Phase Ia Pipe Extension Project* with Wilson & Company, Inc. Director Lyon seconded the motion.

Director Eichenberg stated that he did not support the agreement because the fee is based on a worst-case scenario, and has the potential to be excessive. Director Lyon stated that there is a difference between a "worst-case" and a "realistic" scenario. He opined that this was being realistic.

Mr. Lovato noted that the agreement includes a lot of utility investigation and survey data collection. The utilities usually are not exactly where they are supposed to be. Wilson may be able to quickly rule out one or more alignments and not spend the full amount in that area.

Mr. Kelly added that the Swinburne Dam project had a similarly-drafted agreement, also with Wilson. Wilson was able to get to the preferred design very quickly and did not spend approximately \$120,000 of the funds authorized in that agreement.

In response to a question from Chair Saiers about funding, Mr. Lovato stated that this construction project is in our budget as a cost-share with the Corps of Engineers. It was originally anticipated to be funded under the Corps' 593 program, but that program has no more funds available as the cap has been reached. However, it is a very important project, so the Board approved designing this section now, in anticipation of additional 593 Program funds becoming available in FY 2012, when the cap may be raised.



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Responding to a further question from Chair Saiers, Ms. Mazur responded that this agreement only covers the project design. The project will probably end up being built in phases. Mr. Lovato added that, if the design is complete and 593 Program funds become available, AMAFCA can immediately request the funds to build all or a part of this project. Also, as soon as the preferred alignment is identified, AMAFCA can begin to acquire the right of way, if needed, for that alignment.

The motion passed (4-1), Director Eichenberg voting against.

Chair Saiers called a brief recess at 12:30 p.m. The meeting resumed at 12:40 p.m.

**19. East I-40 Embudo Channel**

- a. Briefing on Proposed Cost Sharing, Maintenance, and Assumption of Project Elements Agreement with the New Mexico Department of Transportation**
- b. Review of Draft *Cooperative Study, Design, Construction, and Assumption of Maintenance Agreement between the New Mexico Department of Transportation and the Albuquerque Metropolitan Arroyo Flood Control Authority for the East I-40 Embudo Channel Reconstruction Project***

Mr. Kelly introduced Tony Abbo, Assistant District Engineer for District 3 of the New Mexico Department of Transportation.

Mr. Kelly noted that the Board had been briefed about the East I-40 Embudo Channel several times over the past two and a half years. At the December 2006 Board meeting, the Board concurred that AMAFCA would accept maintenance of the Embudo Channel if it had been reconstructed according to AMAFCA standards. In December 2008, NMDOT requested AMAFCA accelerate its funding in order to match federal funding in the current Transportation Improvements Program (TIP) as was adopted by the Metropolitan Transportation Board of the Mid-Region Council of Governments on April 23, 2009. The project was listed at \$6 million in the FY-08 and FY-10 Project Schedules, with the money moved forward in the FY-10 Project Schedule. A pool of \$12 million has been identified, half from AMAFCA.

Mr. Kelly gave an overview of the I-40 Embudo Channel, beginning at the quadruple-barrel box at the Pavilions shopping center at Jefferson, and continuing upstream nearly four miles, past Eubank. With transportation patterns changing, a big question is whether or not the re-design needs to accommodate additional lane capacity on I-40. Consideration needs to be given to access for maintenance, light, and ventilation. He noted some possible options, and the drainage area which flows into this channel.



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Responding to a question from Director Eichenberg, Mr. Abbo stated that the Mid-Region Council of Governments expects traffic to double throughout the region over the next fifty years. The NMDOT would like to do a transportation study to determine if future additional lane capacity in this part of the I-40 corridor needs to be allowed for in the drainage design, or if additional lane capacity can be ruled out.

Mr. Kelly stated that staff wished to have the NMDOT be the lead agency in procuring the engineer for the required drainage and transportation studies, evaluation of options for the channel and the quadruple 10'x12' concrete box culvert, preliminary design and final design of the selected first phase of construction. Ease of maintenance will be considered in the design. The study will look at the current amount of deterioration of the channel to determine priorities and the scope of the first phase of the construction project. An overlay versus complete reconstruction will be considered, based on the degree of deterioration. The first phase may be the lower portion of the channel, or another section may be higher priority.

Attorney Rael left during discussion of this agenda item, due to a prior commitment.

Mr. Kelly noted the study, analysis and design work is conservatively estimated at \$1,500,000. At that point, a decision would be made as to which agency should be the contracting agency for the first phase of construction, which would cost approximately \$10,000,000. If it is AMAFCA, the NMDOT agreement with the engineer would be assigned to AMAFCA for the construction phase services only, which would total approximately \$500,000.

Mr. Kelly added that the draft agreement states the NMDOT will fund the design, with the cost of the design to be split 50-50. AMAFCA's 50% of the design money will not be paid until the construction of the first phase. AMAFCA funds will be identified and set aside in the State Short Term Fund until construction. This allows NMDOT to encumber existing federal funds, and AMAFCA to set aside bond money until it is needed. He stated that Attorney Rael has concurred with the agreement and NMDOT legal was still looking at it. He asked for Board comments on the agreement.

Responding to questions from Chair Saiers, Mr. Kelly noted that construction could be over a 10-20 year period depending upon federal funding availability. This agreement goes all the way through acceptance of maintenance of phase one of construction. Amendments will cover construction and maintenance of additional phases. Mr. Abbo noted that, if funds are available, additional drainage improvements can also be constructed and will be maintained by AMAFCA when completed.

Mr. Kelly stated he would bring the agreement back to the Board after legal review is complete, hopefully at the July meeting. The Exhibit (the Request for Proposals) is in draft form only and





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will not be advertised until approved by NMDOT and AMAFCA engineers, and the agreement is signed.

Mr. Abbo stated that he wanted to get the agreement in place so that funding would be committed by the end of August. This would require an advertisement of the RFP in August.

Director Lyon commented that if the agreement is not signed, NMDOT will have to continue to maintain the channel. Mr. Abbo stated that they would do maintenance, but would not have the expertise to rebuild it.

Director Hernandez agreed that the channel needs to be rebuilt at some point, and agree that AMAFCA should help rebuild it. However, he also opined that AMAFCA should not pay anything towards the transportation elements of the project.

Mr. Kelly stated that the transportation requirements of this project were not any different than needing to put the La Cueva Water Quality Facility underground because of design requirements of the Balloon Fiesta Park site. It is simply a design parameter to be considered when designing the project.

Director Eichenberg commented that taking over maintenance of the I-40 Embudo Channel could be expensive, considering the constant vibration effect of traffic on the concrete.

Director Brown noted that AMAFCA and NMDOT were trying to work together to try to solve a future problem. This study will put parameters on what will need to be done in the future. If that includes widening lanes, transportation funds will widen the road. He stated he did not feel uncomfortable with the agencies sharing the design cost to determine the design parameters.

In response to a question from Chair Saiers about rolling over the funds, Mr. Abbo stated that, while theoretically possible, it is unlikely. He wanted to commit the funds by getting an agreement in place to establish a project prior to September 15. Then, after October 1, he will obtain another \$1 million to use on this project.

Mr. Kelly noted that the huge amounts of concrete involved easily cause the cost of the drainage portion of the project to exceed 50% of the cost of the project. He stated he could add another decision point in the agreement to require a determination of the drainage/transportation split on the project.

Responding to a question from Director Eichenberg, Mr. Kelly stated that the channel will maintain the current capacity, which is currently about the 500 year conveyance capacity, or the bankful totals of the tributaries' capacity.



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Mr. Kelly stated that he would incorporate the Board's comments into the agreement and complete the legal review, then bring it to the Board for approval at the July meeting.

Director Brown expressed his support for the project, as it shows agencies working together and planning ahead.

Director Hernandez wanted to know how much of the project expense is being driven by transportation needs. He opined that AMAFCA's money is being used essentially as a local match, and on a project this big, that is a lot of money. Director Brown stated that the NMDOT will spend \$1 million a year elsewhere rather than on this drainage need, if AMAFCA does not work with them on this agreement.

Director Lyon stated he agreed with both Directors. He added that he did not see the rush. The NMDOT should be maintaining the channel in good condition already. He also pointed out there will be different management at both NMDOT and AMAFCA in six months, and suggested that perhaps this project should be left to the new management teams. Then he stated that AMAFCA is in the flood control business and should maintain the flood control channel.

Director Eichenberg stated the need was first brought up years ago. He still supported the overall project, but was uncomfortable with the rush to get started. He stated he would prefer to sleep on it, but apparently the parties did not have that kind of time.

Mr. Kelly stated that he and Tony Abbo had been working on the agreement since the FY 2010 Project Schedule was approved in November, 2009, and the TIP was approved by MRCOG in October, 2009.

Chair Saiers suggested the Board further consider the agreement at the Special Meeting on July 15.

Responding to a question from Director Eichenberg, Mr. Lovato stated that, on the West I-40 Extension, AMAFCA was able to get \$23 million of work from the GRIP project for about \$12 million in total funds by working with the NMDOT. Staff had identified \$17 million in drainage that needed to be done but got \$23 million in drainage work for only about \$12 million.

Director Hernandez noted that in the West I-40 Extension, the message was "hurry up to save money", but he did not see the "save money" part here. He did not see the need for urgency.

In response to a question from Director Eichenberg, Mr. Abbo stated that if the funds are not set aside, at the end of the fiscal year they will go to some other district with a project waiting to go. He does not have time to locate another project in District 3. As a result, this project could end up



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\$1 million short. All the funding now is for the study, and NMDOT is fronting the money for the study.

Responding to a question from Chair Saiers, Mr. Kelly reiterated that the agreement covers all the phases of this project, but the first phase, study and design, is completely NMDOT-funded. No AMAFCA funds are called for until the first phase of construction.

Director Lyon pointed out that AMAFCA could agree to do the first part of the agreement without any AMAFCA funds being invested.

Chair Saiers stated she would like to have some points clarified by July 15. Director Eichenberg stated he supports the part of the agreement where AMAFCA does not spend any money on the study and design. However, he requested some wording in the agreement that AMAFCA can back out of the agreement after the study and design if the funding is not available. Mr. Abbo stated that wording to that effect is already in the agreement.

Director Hernandez made a motion to table the matter until the July 22, 2010 Board meeting. Director Lyon seconded the motion, which passed (3-2), with Directors Eichenberg and Brown voting against.

**23. Real Property Acquisition**

Director Eichenberg made a motion that agenda item 23 be deferred to the July 22, 2010 Board meeting. Director Hernandez seconded the motion, which passed unanimously (5-0).

**21. Field Highlights**

**a. Construction Report**

Mr. Wagener's memo presented a list of current projects. There were no questions.

**b. Field Report**

Chair Saiers stated that the field report would be deferred until the July 22, 2010 Board meeting.

**22. AMAFCA Technical Standards Committee**

**a. Consideration of Extension of Terms for Four of Five Appointees**

Director Hernandez made a motion that the Board approve re-appointment of Aldo Vaio, Art Peterson, John Andrews and Dr. Julie Coonrod to the AMAFCA Technical Standards Committee



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for an additional three-year term through July 31, 2013. Director Brown seconded the motion, which passed unanimously (5-0).

**b. Input on Fifth Member**

The memo from Ms. Jeffries requested input on a fifth member of the Technical Standards Committee. This member should be a non-engineer.

The Board suggested Teresa Cordova, Genieva Meeker, and Janet Saiers. Chair Saiers stated she would be willing to serve if the others suggested were not willing.

Mr. Kelly stated he would contact those individuals to find out their level of interest, and report back to the Board at the July 22, 2010 Board meeting.

**24. Unfinished Business**

None.

**25. New Business**

**a. Montañó Levee Gap Floodplain Mapping**

Mr. Kelly stated that Bohannan Huston prepared an overview map of the inundation mapping in the Montañó Levee Gap area, at AMAFCA's request. The inundation map was prepared using Flow 2D modeling. This mapping will be made available to the City Floodplain Administrator so that he may meet with property owners in this area and inform them of the opportunity to purchase flood insurance, even though FEMA has not yet declared that they are in a floodplain.

**26. Adjourn**

There being no further business to come before the Board, Chair Saiers adjourned the meeting at 1:50 p.m.

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Ronald D. Brown, Secretary-Treasurer 7/22/10

Recorded by Pam Woodruff, Secretary to the Executive Engineer